STANDARD FIRE INSURANCE POLICY

An Analysis of its Provisions and a Brief Discussion of the Legal Questions Involved.

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What is a fire insurance policy? A fire insurance policy may be defined as "a contract to indemnify the holder thereof for actual destruction, by a certain immediate cause, *i. e.*, fire, of value appertaining to certain specified property owned by him." [1] While there are different forms of policies, the foregoing definition is the basis of fire insurance contracts. There are some differences in phraseology, and in some of the provisions of some of the statutory policies, but in essence they are the same and are founded upon the fact given in the definition. It should also be noted that the indemnity is for actual loss sustained.[2] A man should never receive more than the amount of his loss, as it is against public policy for a man to profit by the destruction of his property by fire. The real or actual value cannot always be determined in advance of the fire, especially where personal property is concerned. A stock of merchandise or of material is likely to vary in value, but the owner endeavors to keep some fairly consistent ratio between the value of the property and the amount of insurance carried. While expert accounting has made

[1] The conditions which surround an insurance contract as regards person, place, and property are admirably summed up in Ostrander on Fire Insurance Section 33.

[2] The measure of damage was that agreed upon in the policy, to wit: "The actual cash value at the time of the loss and damage; also that the option to replace the machinery, if destroyed, was a reservation for the benefit of the company. They were not bound to adopt it. What it would cost, therefore, to replace the reaping machine did not furnish the room for damages which the company must pay to make good the loss. Nor was the fact that the machines insured were constructed under a patent of any importance. Patented or unpatented, what they were worth at the time of the fire, was by agreement of the parties to be the measure of their value, and this must be ascertained by testimony as is done in every other case where this value is not fixed." (Commonwealth Ins. Co. v Sennett, 37 Pa. 205). It is not the cost of rebuilding, but the money value at the time of the fire. Waynesboro Mutual Ins. Co. *v.* Creaton, 98 Pa. 451.

a great advance in this country within the past few years, there are still many manufacturers and merchants who do not keep their books and accounts in such a way as to actually set forth the value of what they have on hand at the time of the fire. The investigations which often accompany an adjustment not infrequently reveal a condition of affairs as to value and quantity which are quite unexpected by the property owner.

Most men, when they insure buildings, believe themselves entitled to recover for the amount of the policy. Buildings are, however, not by any means stable in value. They are subject to constant deterioration. Then, again, as the building becomes less desirable for a certain occupancy, either through unsatisfactory interior arrangements or lessened desirability of location, its value decreases because its earning power has decreased. Calculations based upon an experience involving some three hundred and fifty thousand policies, show that about one policy in thirty results in a claim. Of these claims, not over ten per cent. are for total losses. To illustrate this, it may be assumed that one hundred thousand buildings of all kinds are insured. Not more than three thousand, three hundred and thirty-three are injured by fire, and not more than three hundred and thirty-three are totally destroyed. Therefore, out of one hundred thousand contracts, in not more than three hundred and thirty-three cases can the question arise as to whether the value of the property destroyed is less than the insurance. This illustration, of course, applies to buildings, and not to personal property. The value contemplated so far as the insurance of a building is concerned is what it would cost to reinstate the property in the same condition as before the fire, subject to a reasonable deduction for depreciation from use or neglect.

In the case of personal property, the value of the manufacturer's goods consists of the cost of his raw material at the time of the fire, plus transportation charges and cost of manufacture. The value of his machinery is measured by what it would cost at the time of the fire to purchase and set up machines similar to those destroyed, with a suitable deduction for the difference in value between old and new machinery. Where property which is normally subject to fluctuation in value is insured, the price at the time of the fire controls. If grain is bought and stored at seventy cents per bushel, and burns when similar grain is worth ninety cents per bushel in the market,

ninety cents is the limit of value in making up the claim. If, on the other hand, grain falls to fifty cents, then fifty cents is the limit of value. Then, again, some property depreciates very rapidly, a fact which must be taken into account in the matter of values. A threshing machine five years old is practically valueless; an automobile three years old has lost a large part of its value. Fashion also takes a hand in changing values. An Easter hat will have no particular value if it should burn in the fall following the Easter when it was in fashion. Fire has not destroyed its value, it is not worn out, but Dame Fashion has said it is out of date.

An insurance policy is a personal contract. It does not follow the property, and, properly speaking, it does not insure the property at all. It simply agrees to indemnify the owner for a loss occurring to him personally by reason of the damage or destruction of certain property. Consequently, to recover under a fire insurance policy one must show ownership or an insurable interest. Many questions arise in the adjustment of losses over this question of ownership, and it is always a part of wisdom for a man to be sure that he possesses an insurable interest in the property covered by the policy taken out in his name.[3] If John Jones sells a house to William Smith, and gives him possession, John Jones's fire insurance policy does not insure William Smith. If the policy has not been taken up and rewritten in the name of William Smith, then William Smith must bear the loss in case of fire for John Jones cannot collect, since he does not own the property, and William Smith cannot collect because he has no insurance policy. A man may insure such interest as he possesses in certain property against the risk of loss by fire. This includes mortgage interest, an equitable interest in the property, the pledging of property as a security for a loan such as grain in storage. Then again, a fire insurance policy is not only a personal contract, but a personal contract covering property located at a specified and definite place.[4] If the American Fire Insurance Company of Philadelphia issues a policy on a stock of merchandise located at the corner of Girard avenue and Twelfth street, and the goods are moved to the

[3] Insurance being a contract of indemnity it appertains to the person or party to the contract and not to the property which is subjected to the risk. Cummings *v.* Cheshire County Mutual Ins. Co., 55 N. H. 457; Ostrander on Fire Insurance, 209.

[4] The courts generally hold that the risk does not follow the goods to any other location than that described in the policy. Maryland Fire Ins. Co. *v.* Gusdorff, 43 Md. 506; London and Lancashire Ins. Co. *v.* Lycoming Fire Ins. Co., 105 Pa. 424.

corner of Forty-third street and Lancaster avenue, even if the ownership remains the same, the insurance is void because of a change in location without the permission of the company. A fire insurance policy is not only a personal contract, definite in its location, but it also requires a description of the property, and that which is not included in the description is not covered by the policy. Wheat is not insured under a policy describing corn; an automobile is not insured under a policy describing a sleigh.

Having given this preliminary statement of what a fire insurance contract is, what it covers and what it does not cover, let us trace briefly the process of evolution which has resulted in the standard fire insurance policy. In the earlier days, each company issued its own form of policy. The form of policy issued by the Philadelphia Contributionship, the oldest fire insurance company in the country, when it began business, was closely modeled after the English policy of that day. As the business developed, however, policy contracts began to vary. The progressive and aggressive companies sought to make an attractive form of policy while some others issued forms which apparently afforded an opportunity for contests in case of loss. In the case of large fires there would be several companies on a single loss, and with each company issuing a different form, adjustment of losses became difficult. Thus the next step was a local policy, that is, companies in prominent cities issued practically the same form. Under this arrangement Boston had a form, Hartford another, and Philadelphia and New York another. This did not prove satisfactory, however, since, after the close of the Civil War, companies began to do business quite generally over the entire country and the difficulties of the various forms of policies became very manifest.[5] In 1867 and 1868, the National Board of Fire Un-

[5] In Delancy *v.* Rockingham Farmers Mutual Fire Ins. Co., 52 N. H. 581, the court gave an admirable statement of the conditions arising from a multiplicity of policy forms. The language of the court is given herewith:

"The principal act of precaution was to guard the company against liability and losses. Forms of applications and policies (like those used in this case) of a most complicated and elaborate structure were prepared and filled with covenants, exceptions, stipulations, provisions, rules, regulations and conditions, rendering the policy void in a great number of contingencies. These provisions were of such bulk and character that they would not be understood by men in general, even if subjected to a careful and laborious study; by men in general they were sure not to be studied at all. The study of them was rendered particularly unattractive by a profuse intermixture of discourses on subjects in which a premium payer would have no interest. The compound, if read by him, would, unless he were an extraordinary man, be an inexplicable riddle, a mere flood of darkness and confusion. Some of the most material stipulations were concealed in a mass of rubbish on the back side of the policy and

derwriters, an organization including most of the companies of the country, devised and adopted a form of policy designed to be universally used. The universality, however, did not extend very much beyond New York City. Five years later the Massachusetts legislature enacted a law providing for a standard form of policy, and in 1880 the use of this form of policy was made mandatory for all companies operating in that state. In 1886, the legislature of New York adopted a standard form of policy which became mandatory January 15, 1887. This policy was devised by the superintendent of insurance after consultation with insurance officials and organizations. It was carefully prepared, and while not entirely ideal, is

the following page, where few would expect to find anything more than a dull appendix and where scarcely anyone would think of looking for information so important as that the company claimed a special exemption from the operation of the general law of the land relating to the only business in which the company professed to be engaged. As if it were feared that notwithstanding these discouraging circumstances, some extremely eccentric person might attempt to examine and understand the meaning of the involved and intricate net in which he was to be entangled—it was printed in such small type and in lines so long and so crowded that the perusal of it was made physically difficult, painful and injurious. Seldom has the art of typography been so successfully diverted from the diffusion of knowledge to the suppression of it. There was ground for the premium payer to argue that the print alone was evidence, competent to be submitted to a jury, of a fraudulent plot. It was not a little remarkable that a method of doing business not designed to impose upon, mislead and deceive him by hiding the truth, and depriving him of all knowledge of what he was concerned to know, should happen to be admirably adapted to that purpose. As a contrivance for keeping out of sight the dangers created by the agents of the nominal corporation, the system displayed a degree of cultivated ingenuity which, if it had been exercised in any useful calling, would have merited the strongest commendation.

"Traveling agents were necessary to apprise people of their opportunities and induce them to act as policyholders and premium payers, under the name of "the insured." Such emissaries were sent out. The soliciting agents of insurance companies swarm through the country, plying the inexperienced and unwary, who are ignorant of the principles of insurance law and unlearned in the distinctions that are drawn between legal and equitable estates. Combs *v.* Hannibal Savings Ins. Co., 43 Mo. 148, 162; 6 Western Insurance Review, 467, 529. The agents made personal and ardent application to people to accept policies and prevailed upon large numbers to sign papers (represented to be mere matters of form) falsifying an important fact by declaring that they made application for policies, reversing the first material step in the negotiation. An insurance company, by its agent, making assiduous application to an individual to make application to the company for a policy, was a sample of the crookedness characteristic of the whole business.

"When a premium payer met with a loss, and called for the payment promised in the policy which he had accepted upon most zealous solicitations, he was surprised to find that the voluminous, unread and unexplained papers had been so printed at headquarters and so filled out by the agents of the company as to show that he had applied for the policy. This, however, was the least of his surprises. He was informed that he had not only obtained the policy on his own application, but had obtained it by a series of representations (of which he had not the slightest conception) and had solemnly bound himself by a general assortment of covenants and warranties (of which he was unconscious), the number of which was equalled only by their variety and the variety of which was equalled only by their capacity to defeat every claim that could be made upon the company for the performance of its part of the contract. He was further informed that he had succeeded in his application by the falsehood and fraud of his representations—the omission and misstatement of facts which he had expressly cove-

the best and most satisfactory fire insurance contract yet brought into anything like general use. It has been made mandatory by seven other states, and is used generally in all the states where the statutes do not forbid. The following states have standard forms of their own: Maine, Massachusetts, New Hampshire, Michigan, Missouri, Virginia and Wisconsin. For the purposes of this paper the New York form will serve as the basis of discussion. There is no standard form prescribed in Pennsylvania, but the New York policy is used.

We will consider the provisions of the standard policy under the following heads: First, Requirements; second, Exemptions; third, Permissions; fourth, Co-operations.

nanted truthfully to disclose. Knowing well that the applications were made to him and that he had been cajoled by the skillful arts of an importunate agent into the acceptance of the policy and the signing of some paper or other, with as little understanding of their effect as if they had been printed in an unknown and untranslated tongue, he might well be astonished at the inverted application and the strange multitude of fatal representations and ruinous covenants. But when he had time to realize his situation, had heard the evidence of his having beset the invisible company and obtained the policy by just such means as those by which he knew he had been induced to accept it, and listened to the proof of his obtaining it by treachery and guilt in pursuance of a premeditated scheme of fraud with intent to swindle the company in regard to a lien for assessments, or some other matter of theoretical materiality, he was measurably prepared for the next regular charge of having burned his own property.

"With increased experience came a constant expansion of precautionary measures on the part of the companies. When the court held that the agents' knowledge of facts not stated in the application was the companies' knowledge, and that an unintentional omission or misrepresentation of facts known to the company would not invalidate the policy, the companies, by their agents, issued new editions of applications and policies containing additional stipulations to the effect that their agents were not their agents, but were the agents of the premium payer; that the latter was alone responsible for the correctness of the applications, and that the companies were not bound by any knowledge, statements or acts of any agent not contained in the application. As the companies' agents filled the blanks to suit themselves, and were in that matter necessarily trusted by themselves and by the premium payers, the confidence which they reposed in themselves was not likely to be abused by the insertion in the application of any unnecessary evidence of their own knowledge of any thing, on their own representations, or their dictation and management of the entire contract on both sides. Before that era it had been understood that a corporation—an artificial being, invisible, intangible and existing only in contemplation of law—was capable of acting only by agents; but corporations, pretending to act without agents, exhibited the novel phenomena of anomalous and nondescript, as well as imaginary, beings, with no visible principal or authorized representative; no attribute of personality subject to any law or bound by any obligation, and no other evidence of a practical, legal, physical or psychological existence than the collection of premiums and assessments. The increasing number of stipulations and covenants, secreted in the usual manner, not being understood by the premium payer until his property was burned, people were as easily beguiled into one edition as another, until at last they were made to formally contract with a phantom that carried on business to the limited extent of absorbing cash received by certain persons who were not its agents.

"When it was believed that things had come to this pass, the legislature thought it time to regulate the business in such a manner that it should have some title to the name of insurance and some appearance of fair dealing."

Requirements.

Under the head of requirements, we will first consider what is required of the company, then what is required of the insured, giving the text of the policy as an aid to obtaining a clear understanding of the requirements:

"In consideration of the stipulations herein named and of —— dollars premium, does insure —— for the term of —— from the —— day of ——, 190—, at noon, to the —— day of ——, 190—, at noon, against all direct loss or damage by fire, except as hereinafter provided, to an amount not exceeding —— dollars, to the following described property while located and contained as described herein and not elsewhere, to wit:" [6]

This is the opening statement of the policy. Please notice that the consideration is not entirely the premium, but that the stipulations of the contract are as much a part of the consideration as the money paid as premium. For the premium received and the stipulations named, the company is obligated as follows:

"This company shall not be liable beyond the actual cash value of the property at the time any loss or damage occurs." [7]

As explanatory of this, is the following statement:

"And the loss or damage shall be ascertained or estimated according to such actual cash value, with proper deduction for depreciation, however caused, and shall in no event exceed what it would then cost the insured to repair or replace the same with material of like kind and quality." [8] The company is still further required in lines three and four of the policy as follows: "The sum for which this company is liable pursuant to this policy shall be payable sixty days after due notice, ascertainment, estimate and satisfactory proof of the loss have been received by this company in accordance with

[6] The payment of the premium is the first essential of making the contract between the parties valid. The obligation of the insurer must rest upon a consideration. Ostrander on Fire Insurance, 272; Dale *v.* Insurance Co., 95 Tenn. 38.

[7] The contract is one of indemnity, and this indemnity is based upon the principle of restoration of the insured to as nearly his position at the commencement of the risk as may be, and the most satisfactory criterion of the insurable interest is the market value of the insured property at the time and place of the commencement of the risk. See Marchesseau *v.* Merchants Ins. Co., 1 Rob (La.) 438.

[8] The question is not what it would cost to rebuild, but what is shown to be the money value at the time of the fire. Hilton *v.* Phœnix Ins. Co., 42 Atl. 412.

the terms of this policy." [9] These lines pretty thoroughly fix the liability of the company, or as they may be termed, are the main things required of the company, the foundation stones upon which are built the liability which the company assumes when it issues its policy. Another requirement of the company is found in lines forty-nine and fifty: "This policy may by a renewal be continued under the original stipulations, in consideration of premium for the renewed term, provided that any increase of hazard must be made known to this company at the time of renewal or this policy shall be void." [10]

Property is not permitted to wander over the country and still be covered by the policy. The only occasion when it is required of the company to cover in another location is set forth as follows, in lines sixty and sixty-six: "If property covered by this policy is so endangered by fire as to require removal to a place of safety, and is so removed, that part of this policy in excess of its proportion of any loss and of the value of property remaining in the original location, shall, for the ensuing five days only, cover the property so removed in the new location; if removed to more than one location, such excess of this policy shall cover therein for such five days in the proportion that the value in any one such new location bears to the value in all such new locations; but this company shall not, in any case of removal, whether to one or more locations, be liable beyond the proportion that the amount hereby insured shall bear to the total insurance on the whole property at the time of fire, whether the same cover in new location or not." This provision is inserted for the purpose of not leaving a portion of the property uninsured during the hurry of the few days after the fire. The assured takes his property, puts it in a place of safety and then turns his attention to matters more immediately in hand. He has five days in which

[9] The sixty days in which to make payment do not begin to run until the proofs are entirely completed or the award made. McNally *v.* Phenix Ins. Co., 42 N. Y. 21. The delay of sixty days is a right of the company both for preparation and for time to investigate the circumstances so that a determination may be had by the company as to whether there is a liability or not. Doyle *v.* Phœnix Ins. Co., 44 Cal. 264.

[10] When a renewal receipt is issued by the company the contract is continued from the date of its expiration for another term and the terms of the original contract are in force. Hay *v.* Star Fire Ins. Co., 77 N. Y. 235; Hartford Fire Ins. Co. *v.* Walsh, 54 Ill. 164. In another case, a verbal agreement to renew taken with the receipt of the same premium as paid on the original policy was held to have established a valid contract. Scott *v.* Home Ins. Co., 53 Wis. 238. When there is a mere promise by the company's agent without the payment of premium, it cannot be regarded as a renewal. Croghan *v.* Underwriters Agency, 53 Ga. 109.

to have his policy amended so that the property shall be protected in its new location, and during these five days he is insured just the same as he would have been had the property remained in its original location.[11]

Moreover, provision is made that "This company shall not be liable under this policy for a greater proportion of any loss on the described property, or for loss by and expense of removal from premises endangered by fire, than the amount hereby insured shall bear to the whole insurance, whether valid or not, or by solvent or insolvent insurers, covering such property, and the extent of the application of the insurance under this policy or of the contribution to be made by this company in case of loss, may be provided for by agreement or condition written hereon or attached or appended hereto." This is really more of a limitation than a requirement, so far as the company is concerned, but it is considered a general requirement because it has to do with that for which the company is responsible, namely the payment of the loss and the amount for which the company may be held liable. It will be noted that the company shall not be liable to pay any greater proportion of the loss on the described property than the amount of the policy bears to the total insurance. Now note the limitation, because this is of immense practical importance to business men: "Whether valid or not or by solvent or insolvent insurers."[12] The property owner says, What does this mean? Let us illustrate. Here are two men who have purchased insurance policies, each to the amount of $20,000. Each of the men has a fire, and in each case there is a loss of fifty per cent. Property owner A, when he bought his insurance, went bargain hunting. He bought $10,000 in first-class companies and $10,000 in companies, which later proved irresponsible, though they had sold him at a reduction of fifty per cent. in the rate. The irresponsible companies did not pay. How much is he to re-

[11] The insured cannot, however, delay more than five days in having the policy transferred to the new location, but he is entitled to recover for injury to the goods while being transferred to the new location. Case *v.* Hartford Fire Ins. Co., 13 Ill. 676; White *v.* Republic Fire Ins. Co., 57 Me. 53.

[12] Touching the question of void policies in making an apportionment of the loss, Justice Cooley, in the case of the Liverpool and London and Globe Ins. Co., *v.* Verdier, said: "But the actual liability of the last-named company appears to me immaterial. The plaintiff in error required the insured to stipulate in their policy that in adjusting a loss other existing policies should be taken into account even though forfeited; the plain purpose being to protect the company against the necessity of contesting with the insured any question of the validity or invalidity of other existing policies. This was a competent provision, and not unreasonable."

ceive from the solvent companies? Shall the solvent companies be compelled to pay the entire $10,000 loss? No. They only pay such a proportion as their policies bear to the total insurance. So property owner A, who hunted cheap insurance, secures $5,000 with the right to attempt collection of another $5,000 from the irresponsibles. Property owner B purchased all of his insurance in responsible companies. He receives the entire amount of his loss, so far as it is protected by the $20,000 of insurance. Now to simmer this illustration down: one solvent company was on each risk. The other companies were only on one of the risks. Now, the solvent company which was on both risks pays just the same in one case as it does in the other. The point is, that in this requirement of the standard policy, the property owner buys cheap insurance at his own risk.

Now let us ascertain what is required of the insured. The payment of the premium is assumed, and hence, although one of the most vital features of the contract, will not be discussed here. Lines seven and ten of the standard policy read as follows: "This entire policy shall be void if the insured has concealed or misrepresented, in writing or otherwise, any material fact or circumstance concerning this insurance or the subject thereof; or if the interest of the insured in the property be not truly stated herein; or in case of any fraud or false swearing by the insured touching any matter relating to this insurance or the subject thereof, whether before or after a loss." This is one of the hard and fast requirements. There is no provision for any variation in it.[18] The courts, as a rule, have

[18] There is a clear statement of this question of warranty in Chrisman *v.* State Ins. Co., 16 Or. 283. The trial court instructed the jury that the statements contained in the application must be true, "so far as they were material to the hazard, and the materiality of such statements must be shown by the evidence." The Supreme Court took a different view, and in discussing the question, said: "This contract must be so construed as that every word and part thereof shall have effect if possible. This is an elementary rule, to be applied to all writings whenever any right is claimed under them in a court of justice. But, in giving and refusing the charges excepted to, the court below overlooked one essential part of the contract. It is contained in the application and is quoted above. The effect of the material part of it is that if the applicant does not truly answer the following interrogatories, and correctly describe, state, and make known the property, the value, the title, the location, the exposures, the occupancy, the liens, and incumbrances thereon, or if any misrepresentations or omissions to make known any and all facts material to the risk herein, then the said policy shall in either event be null and void. Here the assured was required to make known certain enumerated facts, concerning which he was particularly questioned, and then he was required to make known all facts material to the risk therein, and a failure in either event rendered the policy void. The instruction given by the court was not in accordance with this construction of the policy, and was therefore erroneous; and so, too, as to the instruction refused by the court.

strictly construed this provision, holding that non-compliance with it on the part of the insured will render the policy void.

The next requirement is that which imposes certain duties upon the insured in case of loss. Lines sixty-seven and sixty-nine read:

"If fire occur, the insured shall give immediate notice of any loss thereby in writing to this company, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, make a complete inventory of the same, stating the quantity and cost of each article and the amount claimed thereon." These directions are plain and explicit, and there is no reason for any failure on the part of the insured to do that which is required of him. He cannot make any mistake if he follows exactly the language of the policy.[14]

Lines 70 to 85 of the standard policy have to do with the making out of proofs of loss. The language here is plain and explicit, and so we give it just as it is written in the policy: "And within sixty days after the fire, unless such time is extended in writing by this company, shall render a statement to this company, signed and sworn to by said insured, stating the knowledge and belief of the insured as to the time and origin of the fire; the inter-

The effect of that refusal and the giving of the instruction complained of, was to declare that said policy contained no warranty; that all the statements of the assured in his application were representations merely, and not warranties, and their falsity was of no effect unless material to the hazard of the risk. In this view, the distinction between warranty and a representation was entirely overlooked. The difference between a warranty and a representation is that a warranty must be true, while a representation must be true only so far as the representation is material to the risk; and is material when a knowledge of the truth would have induced the insurer to have refused the risk, or to have charged a higher rate of premium." Ostrander says of this case, "We think this is carrying the doctrine farther than will be justified in view of the general trend of authorities." Farther on in his discussion of this subject, the same author says, "But the courts have been in the habit of construing the insurance contract when it is ambiguous, or when difficulty is experienced in reconciling apparently contradictory provisions, so as to give to the assured the benefit of any doubt which may be found to exist, on the ground that it is the language of the company and not of the insured, and that it was the insurer's duty to make the contract plain and free from ambiguities or contradictions." Ostrander, 377.

[14] The provision appears to be plain and explicit, but still owing to the desire to give effect to the policy, whenever possible for the benefit of the insured the courts have construed a waiver when the facts at all justified it. When there has been a clear preservation of the rights of the company so that no waiver can be construed, the provision has been upheld. Not all courts have construed in favor of the insured, though many have. This also involves what are satisfactory proofs of loss. Strictly construing the making of proofs, see Allen *v.* Milwaukee Mechanics, 106 Mich. 204; Burlington *v.* Ross, 48 Kan. 228. On the other side, see Flatley *v.* Phenix Ins. Co., 95 Wis. 618; Matthews *v.* American Central Ins. Co., 154 N. Y. 44. As to what constitutes satisfactory proofs of loss, Ætna Ins. Co. *v.* Peoples Bank, 62 Federal, 222; Howard Ins. Co. *v.* Hocking, 115 Pa. 415; Towne *v.* Springfield F. and M. Ins. Co., 145 Mass. 582; Jones *v.* Howard Ins. Co., 117 N. Y. 103.

est of the insured and of all others in the property; the cash value of each item thereof and the amount of loss thereon; all incumbrances thereon; all other insurance, whether valid or not, covering any of said property; and a copy of all the descriptions and schedules in all policies; any changes in the title, use, occupation, location, possession, or exposures of said property since the issuing of this policy; by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of fire; and shall furnish, if required, verified plans and specifications of any building, fixtures, or machinery destroyed or damaged, and shall also, if required, furnish a certificate of the magistrate or notary public (not interested in the claim as a creditor or otherwise, nor related to the insured) living nearest the place of fire stating that he has examined the circumstances and believes the insured has honestly sustained loss to the amount that such magistrate or notary public shall certify.

"The insured, as often as required, shall exhibit to any person designated by this company all that remains of any property herein described, and submit to examinations under oath by any person named by this company, and subscribe the same; and, as often as required, shall produce for examination all books of accounts, bills, invoices, and other vouchers, or certified copies thereof, if originals be lost, at such reasonable place as may be designated by this company or its representative, and shall permit extracts and copies thereof to be made."

The above requirements must be performed within the sixty days after the fire, unless compliance with the same is waived or extended by the company. There are many different things required in the provisions quoted, and the insured should study them carefully in order that his rights be not injured or lost by omitting to do something required or improperly doing something which he attempts to do. These provisions have resulted in much litigation, and practically every sentence of the provisions covering the adjustment of a loss has been passed upon by the courts. Some of the most important of these are given in the foot notes.[15]

[15] In the case of Claflin *v.* Insurance Companies, 110 U. S. 81, the court said of this provision for exhibits and examinations: "The object of this provision in the policies of insurance was to enable the company to possess itself of all knowledge and all information as to the other sources and means of knowledge, in regard to the facts, material to their rights, and to enable them to decide upon their obligation and to protect them against false claims. And every

Lines 45 and 46 read as follows: "If an application, survey, plan, or description of property be referred to in this policy, it shall be a part of this contract and a warranty by the insured." This matter of warranties has received much judicial interpretation, the question often arising as to what is a warranty, and what a mere representation, the decision on this point having an important bearing on a recovery under the policy. It is very largely a technical question, interpreted according to the viewpoint of the bench, and very naturally there is much conflict among the decisions.

"No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity until after full compliance by the insured with all the foregoing requirements, nor unless commenced within twelve months next after the fire." This provision comprises lines 106 and 107 of the policy and the main point is that of the limitation for the beginning of a suit.[16]

Exemptions.

The second part of the policy to be considered are exemptions. Lines 31 and 32½ read as follows: "This company shall not be liable for loss caused directly or indirectly by invasion, insurrection, riot, civil war, or commotion, or military or usurped power, or by

interrogatory that was relevant and pertinent in such an examination was material, in the sense that the true answer to it was of the substance of the obligation of the assured. A false answer as to the matter of fact, material to the inquiry, knowingly and willfully made with intent to deceive the insurer, would be fraudulent." In the case of Gross *v.* St. Paul F. and M. Ins. Co., 22 Fed. 74, we quote from the opinion of the court: "The stipulation is a valid one. It is one for the protection of the insurer, and not onerous to the insured. It is akin to the stipulation requiring the insured to exhibit his books of account, invoices, etc.; one in the interests of justice and fair dealing. The insurer may insist on compliance, and the insured must comply or give a valid excuse therefor. (Mueller *v.* Ins. Co., 45 Mo. 84; Dewees *v.* Ins. Co., 34 N. J. Law, 244)."

[16] As to limitation we quote from the opinion of Justice Field in Davidson *v.* Phœnix Ins. Co., 4 Sawyer, 594. "That the condition is valid, there can be no reasonable doubt. There is nothing in it against law or public policy. It rests upon the same grounds as other conditions, such as requiring notice of losses, and a detailed statement of the particulars. Its object is not to deprive the legal tribunals of their proper jurisdiction, but to compel an early resort to them when claims for losses are disputed, or an abandonment of the claims. It may, in many instances, be of great importance to the company that such claims be prosecuted as speedily as possible, whilst the facts are fresh in the recollection of witnesses, and their testimony can be readily obtained. The greater the delay, the greater will be the difficulty of detecting frauds on the part of the insured, or of ascertaining the actual extent of the losses incurred."

order of any civil authority."[17] While exempting the company from liability, it does not mean that such losses may not be recovered, but from the state or municipality instead of from the company. Lines 32½ and 35 exempt the company from losses which may be concurrent with the fire loss, but are not losses by fire itself.[18] Moreover, the company is not liable for loss "by theft; or by neglect of the insured to use all reasonable means to save and preserve the property at and after a fire or when the property is endangered by fire in neighboring premises; or by explosion of any kind (unless fire ensues, and, in that event, for the damage by fire only), or lightning, but liability for direct damage by lightning may be assumed by specific agreement hereon."

Similar to the above exemptions are those mentioned in lines 36 and 37:

"If a building or any part thereof fall, except as the result of fire, all insurance by this policy on such building or its contents shall immediately cease." Suppose a building is blown over by wind, the fire insurance instantly ceases, so that if subsequently burned the fire insurance company is not liable. This provision also covers cases of buildings thrown down by the force of an explosion. Probably the best known of recent cases in this particular are those growing out of the Tarrant explosion in New York. This was a brick building, containing explosive chemicals in quantities larger than permitted by the city ordinance. Through some means these chemicals induced an explosion which wrecked several adjoining buildings and fire ensued and burned up the débris, but the courts held that the buildings fell as the result of the explosion, and that the fire policies ceased when the explosion took place. A

[17] The case of Ætna *v.* Boone *et al*,, 95 U. S. 117, is a leading one on this point. In holding that the company was not liable, the court said, "In the present case, the burning of the city hall and the spread of the fire afterwards was not a new and independent cause of loss. On the contrary, it was an incident, a necessary incident and consequence of the hostile rebel attack on the town—a military necessity caused by the attack. It was one of a continuous chain of events brought into being by the usurped military power—events so linked together as to form one continuous whole. Hence it must be concluded that the fire which destroyed the plaintiffs' property took place by means of an invasion or military or usurped power and that it was excepted from the risk undertaken by the insurers." Also see Lycoming Fire Ins. Co., *v.* Schwenk, 95 Pa. 89, for meaning of riot.

[18] The burden of proving that the building or any part thereof fell before any fire ensued is upon the company. Western Assurance Co., *v.* J. H. Mohlman Co., 84 Fed. 811. Where the building, though shattered by the explosion, was not shown to have fallen before the fire, the company was held liable. Eppens Smith and Wieman Co. *v.* Hartford Fire Ins. Co., 90 N. Y. Supp. 1035.

very important exemption is the following: "This company shall not be liable for loss to accounts, bills, currency, deeds, evidences of debt, money, notes, or securities," which forms line 38 in the standard policy. The general reason why these objects may not be insured is that it would open the door to fraud, therefore to provide for their insurance is against public policy. When it comes to the adjustment of a loss, it is especially desirable that the rights of both parties to the contract be preserved, and inasmuch as the company often desires certain information concerning the fire before determining whether to pay or make a contest, the following provision in lines 92 and 93 was inserted to protect the company in such preliminary investigation: "This company shall not be held to have waived any provision or condition of this policy or any forfeiture thereof by any requirement, act, or proceeding on its part relating to the appraisal or to any examination herein provided for."

There are many cases in the reports dealing with this question of waiver, and a general proposition which may be drawn from them is that the company's representative should use very great care in the preliminary investigation or the courts will hold the company as having waived its rights. It is better to make an independent investigation than to hazard a waiver, for in one case where an agreement was entered into by the representative of the company and the insured that such preliminary investigation should not be waived the court held it to be one.[19]

[19] The decisions upon this question of waiver in preliminary investigations do not agree We quote from Briggs *v.* Firemen's Fund Ins. Co, from Mich., quoted in 16 Ins. Law Journal 471, where it said: "It is claimed that the fact of the agent of the company going to the scene of the fire and making inquiries without showing what such inquiries were, and of requesting an arbitration to fix the amount of the loss, and the plaintiff paying one-half of the expense of the arbitration, constituted a waiver of any forfeiture on the ground of over-valuation. We can not concede this claim. The company had a right to make inquiries—to investigate—both as to the origin of the fire and the value of the property, and the contract between the parties was that an arbitration, for the sole purpose of determining the amount of the loss, might be had upon request of either party, and that the expense thereof should be borne equally, and the agreement to arbitrate expressly stipulated that such submission should not be taken as a waiver on the part of the company of the conditions of the policy. In view of these facts, there is no room for claiming a waiver on the part of the company." As to waiver of proofs of loss, the court in the case of the North German Ins. Co. *v.* Morton-Scott Co., 31 Ins. L. J. 580, said, "We are also of opinion that when an insurance company demands an appraisal or estimate of loss, it must be held to have conceded its liability for some amount, and the only question that remains open is the amount of the loss. This is the last step to be taken in the adjustment of a loss, and not the first one, as is usually held by insurance companies. Unless it be in exceptional cases, there is no necessity for an appraisal as long as liability is denied, and, when the appraisal is demanded, other questions which go merely to the liability of the insurance company must be treated as waived. Hickerson *v.* Ins. Co. 96 Tenn. 193."

Permissions.

The third sub-division, and a very important one, deals with the matter of permissions. Lines 11 and 30 inclusive set forth a large number of acts of omissions which shall render the policy void unless permission be indorsed thereon: "This entire policy, unless otherwise provided by agreement, indorsed hereon or added hereto, shall be void if the insured now has or shall hereafter make or procure any other contract of insurance, whether valid or not, on property covered in whole or in part by this policy; or if the subject of insurance be a manufacturing establishment and it be operated in whole or in part at night later than ten o'clock, or if it cease to be operated for more than ten consecutive days; or if the hazard be increased by any means within the control or knowledge of the insured; or if mechanics be employed in building, altering, or repairing the within described premises for more than fifteen days at any one time; or if the interest of the insured be other than unconditional and sole ownership; or if the subject of insurance be a building on ground not owned by the insured in fee simple; or if the subject of insurance be personal property and be or become incumbered by a chattel mortgage; or if, with the knowledge of the insured, foreclosure proceedings be commenced or notice given of sale of any property covered by this policy by virtue of any mortgage or trust deed; or if any change, other than by the death of an insured, take place in the interest, title, or possession of the subject of insurance (except change of occupants without increase of hazard), whether by legal process or judgment or by voluntary act of the insured, or otherwise;[20] or if this policy be assigned before a

[20] This provision, though apparently clear and plain, has frequently been before the courts. As applying to conditions existing at the time the policy was issued the court said in Hoose *v.* Prescott Ins. Co., 11 L. R. A. 340, "Now the object sought to be accomplished by the person applying for insurance was to obtain indemnity against loss by fire of her interest in the building. If the insurance company who made out this policy upon the verbal application to its agent had desired to know what interest it was insuring, it should have stated it in that part of the policy pertaining to the risk. It was the intention of these parties to issue a valid and binding contract of insurance, valid and binding from the time of acceptance of the same by the assured, not that after it had been accepted by the assured then the assured should apply to the company and obtain its consent in writing indorsed on the policy, stating that the assured was the sole and unconditional owner of the property, or, stating that the building intended to be insured stood on ground owned in fee simple by the assured, or stating by indorsement on the policy the interest which the assured had in the property covered by the insurance, and yet the language of this part of the policy is that the entire policy, and every part thereof, shall become void—that is, void in the future, unless such consent in writing is endorsed by the company thereon. To give any reasonable force and effect to this clause of the policy, it can

loss; or if illuminating gas or vapor be generated in the described building (or adjacent thereto) for use therein; or if (any usage or custom or trade or manufacture to the contrary notwithstanding) there be kept, used, or allowed on the above described premises benzine, benzole, dynamite, ether, fireworks, gasoline, greek fire, gunpowder exceeding twenty-five pounds in quantity, naphtha, nitroglycerine, or other explosives, phosphorus, or petroleum, or any of its products of greater inflammability than kerosene oil of the United States standard (which last may be used for lights and kept for sale according to law, but in quantities not exceeding five barrels, provided it be drawn and lamps filled by daylight or at a distance not less than ten feet from artificial light); or if a building herein described, whether intended for occupancy by owner or tenant, be or become vacant or unoccupied and so remain for ten days."

This portion of the policy should be carefully studied by policyholders that they may know just what may be done with permission and also to understand that without permission these acts render the policy void. As these matters are covered by indorsements upon the policy, they will be discussed more at length when treating of forms, or riders as they are sometimes termed, of the policy. Suffice it to say that there are numerous things which may be done provided the company is notified and permission is asked. The reason for this is that each of these acts has a tendency to increase the hazard. As the property was insured upon the basis of a given and determined hazard, if the hazard is to be increased the company has the privilege of saying whether it desires to continue the insurance by granting the permission, charging an increased premium, or to cancel the policy and get off the risk. In effect, the most of these permissible things will be granted without question, but they must be asked for or they will void the policy.

The following list, given in lines 39 to 44 inclusive, are items concerning which there might be some doubt as to their being covered by a general policy: "Nor, unless liability is specifically assumed hereon, for loss to awnings, bullion, casts, curiosities, drawings, dies, implements, jewels, manuscripts, medals, models, patterns, pic-

only be held to apply to such changes as arise after the policy has been delivered and accepted in the ownership of the property, or, if a building stood upon leased ground, the ownership of the building; and it does not apply to an existing state or condition of the property at the time the policy was issued."

tures, scientific apparatus, signs, store or office furniture or fixtures, sculpture, tools, or property held on storage or for repairs; nor beyond the actual value destroyed by fire, for loss occasioned by ordinance or law regulating construction or repair of buildings, or by interruption of business, manufacturing processes, or otherwise; nor for any greater proportion of the value of plate glass, frescoes and decorations than that which this policy shall bear to the whole insurance on the building described." In order to have these items covered, they must be specifically described in the policy.[21] These lines explain why certain things are set forth specifically in form.

The protection of the interest of a mortgagee or of any person or corporation having an interest in the subject of insurance through the interest of the insured, is set forth in the following provision, which forms lines 56 to 59 of the standard policy: "If, with the consent of this company, an interest under this policy shall exist in favor of a mortgagee or of any person or corporation having an interest in the subject of insurance other than the interest of the insured, as described herein, the conditions hereinbefore contained shall apply in the manner expressed in such provisions and conditions of insurance relating to such interest as shall be written upon, attached, or appended hereto." This protection is provided through a mortgage clause written in, or usually attached to, the policy. The permission is granted to the outside party to describe his interest in detail, and after it is described the company is bound to follow the directions of the indorsement in the settlement of a loss.

It not infrequently occurs that a fire is caused by the neglect of some person or corporation having no direct interest in the property insured. The holder of the policy desires to secure his indemnity rather than to have a law suit, so it is provided in the policy that the company may pay the loss and be subrogated to all of the policyholder's rights. The provision is as follows, which forms lines 102 to 105 of the policy: "If this company shall claim that the fire was caused by the act or neglect of any person or corporation, private or municipal, this company shall, on payment of the loss, be subrogated to the extent of such payment to all right of recovery by

[21] This section imposes care in the description of the property insured, as if an article is not specifically mentioned, there is doubt as to whether it is covered. It pays to be particular in stating just what articles belonging to this class are intended to be insured. In Thurston *v.* Union Ins. Co. *et al.*, 17 Fed. 127, it was held that store fixtures did not include partitions, doors and windows, or elevator machinery, gas pipes, or speaking tubes.

the insured for the loss resulting therefrom, and such right shall be assigned to this company by the insured on receiving such payment." Not infrequently this subrogation is of much value in cases where property is burned from sparks from a locomotive. It is also of much value to the insured in the matter of securing the prompt payment of the loss.[22]

Co-operations.

The last set of provisions of the policy are what are termed co-operations. The first of these is to be found in the last part of line 2, and reads as follows: "Said ascertainment or estimate shall be made by the insured and this company, or, if they differ, then by appraisers, as hereinafter provided."[23] Both parties to the contract work in co-operation here. This is another of the provisions of the contract which have been subject to much judicial investigation.

Another co-operation deals with the cancellation of the policy. The provision covering this is to be found in lines 51 to 55: "This policy shall be canceled at any time at the request of the insured; or by the company by giving five days' notice of such cancellation. If this policy shall be canceled as hereinbefore provided or become void or cease, the premium having been actually paid, the unearned

[22] Touching the matter of subrogation, Ostrander, P. 36 remarks, "When insured property has been damaged by the wrongful act of another, and the loss is paid by the underwriter, the right of subrogation is now so well settled and so generally understood that it will need hardly to be stated." Also Hewet *v.* Nourse, 54 Me. 256: "He must use reasonable care and prudence to prevent its spreading and doing injury to the property of others. The time of burning may be suitable, and the manner prudent, and yet, if he be guilty of negligence in taking care of it, and it spreads, and does injury to the property of others in consequence, he is liable for any damage for the injury done."

[23] The question of most practical interest in this phase of the contract is that which deals with the appraisal of the damage in cases where the insured and the company do not agree. Appraisals and appraisers have been the cause of much litigation and have also prevented much litigation. There are so many phases of this question and so many questions which may arise that it is impossible to cite cases setting forth anything like a fair presentation of the case law, so it will not be attempted. One case will be cited as showing what an appraiser should be. The case is that of Bradshaw *v.* Agricultural Ins. Co., 137 N. Y. 137, in which the court said: "While it may be true that in the appointment of these appraisers each party nominates some one who may be supposed to be friendly to the side nominating him, yet he should at the same time be disinterested; or, in other words, fair and unprejudiced. The duties of these appraisers are to give a just and fair award—one which shall fairly and honestly represent the real loss actually sustained by reason of the fire; and it is not the duty of either appraiser to see how far he can depart from that purpose and still obtain the consent or agreement of his associate. or in case of his refusal, then of the umpire. It is proper and to be expected that all the facts which may be favorable to the party nominating him shall be brought out by the appraiser, so that due weight may be given to them; but the appraiser is in no sense for the purpose of an appraisal, the agent of the party nominating him, and he remains at all times under the duty to be fair and unprejudiced, or, in the language of the policy, 'disinterested.' "

portion shall be returned on surrender of this policy or last renewal, this company retaining the customary short rate; except that when this policy is canceled by this company by giving notice it shall retain only the *pro rata* premium."[24] This provision is plain and simple, and yet so far as the five days' notice is concerned it has been often litigated. Two facts should be noted here. If the company cancels the policy, it shall return to the insured the *pro rata* unearned premium. If the insured shall cancel it, the company shall be entitled to a charge, or what is known as a short rate, upon the theory that the company has been to some expense in the matter of the insurance and that therefore it should be compensated in some degree by the determination of the insured to cancel.

Lines 113 to 116 are a sort of co-operative addendum to the balance of the contract: "This policy is made and accepted subject to the foregoing stipulations and conditions, together with such other provisions, agreements or conditions as may be indorsed hereon

[24] The rule in regard to cancellation must be strictly followed. Unless the insured waives his right to five days' notice cancellation does not become effective until after five days have elapsed after the notice is given. As regards the return of the unearned premium the court of appeals of New York has held that the unearned premium need not be returned till the policy is surrendered. The point is quite fully discussed in Backus *et al. v.* Exchange Fire Ins. Co., 19 N. Y. Supp. 677. As to who shall be served with notice of cancellation there has been considerable difference of opinion, the companies often claiming that service upon the broker who originally placed the insurance is sufficient. The question was before the Supreme Court of the United States in the case of Grace *et al. v.* American Central Ins. Co., 109 U. S. 278. In this case, relying upon a custom which existed in New York and Brooklyn, the trial court heard evidence of this custom. In reversing the lower court, the Supreme Court said: "At the trial below, evidence was offered by the company and was permitted over the objection of the plaintiffs to go to the jury, to the effect that when this contract was made, there existed in the cities of New York and Brooklyn an established, well-known general custom in fire insurance business, which authorized an insurance company, entitled upon notice to terminate its policy, to give such notice to the broker by or through whom the insurance was procured. This evidence was inadmissible because it contradicted the manifest intention of the parties as indicated by the policy. The objection to its introduction should have been sustained. The contract as we have seen, did not authorize the company to cancel it upon notice merely to the party procuring the insurance—his agency, according to the evidence, not extending beyond the consummation of the contract. The contract, by necessary implication, required notice to be given to the insured, or to some one who was his agent to receive such notice. An express, written contract embodying in clear and positive terms the intention of the parties can not be varied by evidence of usage or custom. In Barnard *v.* Kellog, 10 Wall. 383, this court quotes with approval the language of Lord Lyndhurst in Blackett *v.* Royal Exchange Assur. Co., 2 Cromp. and Jervis, 209, that 'usage may be admissible to explain what is doubtful. It is never admissible to contradict what is plain. This rule is based upon the theory that the parties, if aware of any usage or custom relating to the subject matter of their negotiation, have so expressed their intention as to make the contract out of the operation of any rules established by mere usage or custom. Whatever apparent conflict exists in the adjudged case as to the office of custom or usage in the interpretation of contracts, the established doctrine of this court is as we have stated. Partridge *v.* Ins. Co., 15 *ib.* 573; Robinson *v.* U. S., 13 *ib.* 365; The Delaware, 14 *ib.* 603; Nat. Bank *v.* Burkhardt, 100 *ib.* 692."

or added hereto, and no officer, agent, or other representative of this company shall have power to waive any provision or condition of this policy except such as by the terms of this policy may be the subject of agreement indorsed hereon or added hereto, and as to such provisions and conditions no officer, agent, or representative shall have such power or be deemed or held to have waived such provisions or conditions unless such waiver, if any, shall be written upon or attached hereto, nor shall any privilege or permission affecting the insurance under this policy exist or be claimed by the insured unless so written or attached." One of the important matters in this connection is that the contract may not be changed by oral representations. They conform with the requirements that everything tending to vary the policy in any way shall be in writing and attached to the policy and brought to the knowledge of the company.[25]

Special Clauses.

There now remains, so far as the policy is concerned, the consideration of the clauses which may be attached to the policy and which in general come under the head of the permissions of the contract. These are of much importance, and will be considered under the head of special clauses.

The standard policy provides, under the permissive portion, that

[25] Probably no provision of the standard policy has resulted in more judicial construction than this closing section with its statement as to waiver of any of the provisions of the contract. There are three times when waiver comes most to the front as follows: when the policy is issued, when the policy is in force and the insured desires some modification of the policy, and when a loss has occurred. These waiver cases arise mostly from the acts or omissions of the agent. There are two varieties of waivers: First, by a written endorsement attached to the policy, and second, oral waiver. The weight of the decisions is against the power of an agent to make a binding oral waiver. The leading case on this point is that of Quinlan *v.* Providence-Washington Ins. Co., 133 N. Y. 356, where it is said: "The limitations upon the authority of Kelsey were written on the face of the policy. It declared that 'no officer, agent or representative' of the company should have power to waive any provision or condition embraced in the printed and authorized policy, but power is given to agents to waive added provisions or conditions, provided such waiver is written upon or attached to the policy. Where a policy permits an agent to exercise a specified authority, but prescribes that the company shall not be bound unless the execution of the power shall be evidenced by a written endorsement on the policy, the condition is of the essence of the authority, and the consent or act of the agent not so endorsed is void." After a loss has occurred it appears that an agent can waive the provisions of the policy in regard to proof of loss, notice, and those things which the insured must do in securing an adjustment unless the company waives its rights. The Wisconsin supreme court held in the case of the Oshkosh Match Works *v.* Manchester Assur. Co., that as the standard policy of that state is a statute an agent has not power to waive any of its provisions . Generally, if a company or its agent knows anything which would void the policy, and permits the policy to continue, the forfeiture will be considered waived.

various portions of the policy may be modified by special written agreements with the insured, called indorsements, which are sometimes termed riders. The permissive portions of the policy are binding, as they read, in the absence of any agreement between the company and the insured reduced to writing and attached to the policy. Among the clauses which may be changed are the prohibitive clauses in lines 11 to 30; the excepted articles in lines 30 to 44; those relating to mortgage interests, lines 56 to 59; and the application of the proceeds of the policy, lines 98 and 99. The policy provides that as to the creditor's interest, the contract shall apply as may be expressed in the written clause referring thereto.

Let us consider these clauses somewhat in detail, as they are especially important in securing an understanding of the scope and limitations of the contract. In the first place, let us consider the mortgage clause, provided for in lines 56 to 59: "If, with the consent of this company, an interest under this policy shall exist in favor of a mortgagee or of any person or corporation having an interest in the subject of insurance other than the interest of the insured as described herein, the conditions hereinbefore contained shall apply in the manner expressed in such provisions and conditions of insurance relating to such interest as shall be written upon, attached, or appended hereto."

It is often the case that real property which is covered by insurance is also encumbered by a mortgage. Now, an insurance policy runs to the owner, and without some special indorsement the mortgagee is not protected so far as the insurance is concerned. Without an indorsement the insurance would go to the owner and the mortgagee's only indemnity would be his right of recovery from the owner. In order to facilitate the borrowing of money, it became necessary for the property owner to give the mortgagee an interest in the insurance. This is done by attaching to the policy what is known as the mortgagee clause. This clause provides that the loss or damage, if any, under the policy shall be payable to the mortgagee or trustee, as his interest may appear, and it furthermore provides that the insurance as to the interest of the mortgagee and trustee only therein shall not be invalidated by any act or neglect of the mortgagor or owner of the within described property;[26]

[26] The attachment of the standard mortgage clause creates an individual contract with the mortgagee, which cannot be held invalid because of any act or neglect of the mortgagor whether

nor by any foreclosure or other proceeding or notice of sale relating to the property; nor by the occupation of the premises for purposes more hazardous than are permitted by this policy, provided that in case the mortgagor or owner shall neglect to pay any premium due under this policy, the mortgagor or trustee shall, on demand, pay the same. It is further provided that the mortgagee or trustee shall notify the company of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee, and, unless permitted by the terms of the policy, it shall be noted thereon and the mortgagee shall, on demand, pay the premium for such increased hazard for the term of the use thereof. The failure to do this voids the policy. This clause does not waive the right of the company to cancel the policy so far as the owner is concerned, but in any such case the mortgagee shall be protected for ten days after notice, after which the right of cancellation shall exist against the mortgagee. This clause also provides that the company when it pays any loss to the mortgagee shall be subrogated to the rights of the mortgagee to the extent of the funds paid under the security as held as collateral to the mortgage debt.[27] Or, if the company shall chose to pay the entire mortgage indebtedness, it shall receive assignment of the mortgage. This pretty well protects the interest of the mortgagee and also the interest of the company. There is sometimes a variation made in the mortgagee clause in regard to contribution. This contribution clause provides that in case of any other insurance, the company shall not be liable for any greater proportion than the sum insured by the policy bears to the total amount of insurance issued or held by any parties having an insurable interest therein. The mortgagee clause is one of the most common of policy indorsements, and one which owners of property and lenders of money should be thoroughly familiar with.

The question of other insurance on the property is always of

committed before or after the issuance of the policy. See Hastings *v.* Westchester Fire Ins. Co., 73 N. Y. 141; Mutual Fire Ins. Co., *v.* Alvord, 61 Fed. 752; 2 Am. Law Register & Review (August, 1895), 510.

[27] Where the company pays the amount of the loss to the mortgagee it is entitled to be subrogated to the rights of the mortgagee to the extent of the payment made on account of the loss. Allen *v.* Watertown Fire Ins. Co., 132 Mass. 480; Ulster County Sav. Inst. *v.* Decker *et al.*, 74 N. Y. 604. Unless the policy is absolutely forfeited as to the mortgagor, the company is not entitled to assignment of mortgage on payment of the loss to the mortgagee upon mere claim of forfeiture as to the mortgagor. Traders Ins. Co. *v.* Race, 142 Ill. 338.

considerable moment where there is a likelihood of there being additional insurance. The company is always entitled to know the amount of insurance on the property, and this is provided for in the following statement in lines 12 and 13: The policy "shall be void if the insured now has or shall hereafter make or procure any other contract of insurance, whether valid or not, on property covered in whole or part by this policy." This clause is in line with the one providing for contribution in cases of partial loss, in that the provision runs against insurance whether valid or not. Under its terms it is necessary where any additional insurance is desired to have permission to secure the same indorsed on the policy. Quite frequently the amount of additional insurance which may be permitted is specified in the indorsement.[28]

The next permission is that with reference to operating a manufacturing establishment outside of regular hours, or of shutting it down altogether. The clause providing for this reads as follows: "If the subject of insurance be a manufacturing establishment and it be operated in whole or part at not later than ten o'clock, or if it cease to be operated for more than ten consecutive days." This provision is reasonable, for it has to do with the right of the company to know whether the hazard is being increased or not, and, unlike some of the other permissive clauses, its operation can be prevented by waiver or estoppel.[29]

[28] Since there is some conflict among the decisions as to the necessity for having endorsement of other insurance on the policy, it is wise to have an express permit endorsed on the policy. The usual form reads, "$..... concurrent insurance permitted." In the case of the New Jersey Rubber Co. *v.* Commercial Union Assurance Co., 13 Ins. Dig 102, the court said of concurrent insurance that it was that "which to any extent, insures the same interest against the same casualty, at the same time as the primary interest, on such terms that the insurers would bear proportionally the loss happening within the provisions of both policies. It is this last quality, of sharing proportionally in the loss, that distinguishes concurrent insurance from mere double insurance. The permission of concurrent insurance, in contrast with the requirements, gives the insured an option as to the time when he will procure other insurance, the length of its duration, and the property it shall cover, provided it shall proportionally aid the primary insurer in bearing whatever loss may occur within the range of their common operation." It was held by the supreme court of Connecticut in Cutler *v.* Royal Ins. Co., 70 Conn. 566, that the co-insurance clause does not obviate the requirement for written consent for other insurance.

[29] The question of what is meant by the ceasing to operate, is of large practical importance. It involves the rules of waiver and estoppel, so if prior knowledge on the part of the agent can be shown it will operate as a waiver. The supreme court of Michigan in the case of City Planing and Shingle Mill Co. *v.* Merchants, etc., Mut. Fire Ins. Co., 72 Mich. 654, said: "The stoppage of the mill was occasioned solely by the want of logs to manufacture. The logs were expected daily, and their not being received was not the fault of the plaintiff. It was mere temporary suspension, which in the first place, was supposed would only last a few days, and that from day to day. This clause cannot mean that a stoppage of this kind for a day, or even a week,

Following this is the provision in regard to increasing the hazard. It reads: "Or, if the hazard be increased by any means within the control or knowledge of the insured." Many cases arise in which this clause comes into operation, and it is important that the company be notified of any such increase in hazard.[30] Akin to this, and really a part of the same general provision, is the following

for want of running material, an event quite likely to occur once or more in any season, would be considered 'ceasing to operate.' The policy speaks of premises becoming vacant or unoccupied 'or if a mill or manufactory, it shall cease to be operated.' This must mean a closing with the intention of ceasing operation, not a shutting down for a few days or weeks because of the happening of events, incident to the conducting of a mill in that locality, which might be reasonably expected, such as want of logs because of low water, which caused the suspension in this case." The whole question is well discussed in American Fire Ins. Co. *v.* Brighton Cotton Mfg. Co., 125 Ill. 131. "What is the meaning of the words 'cease to be operated,' as used in the policy? The operation of a large manufacturing establishment means doing everything necessary for its successful and profitable management. It would necessarily be the work of many hands, and the operation would be multiplied many fold. The duties of the many employees would be quite dissimilar, and entirely independent of each other, but all necessary to either the profitable or successful operation of the factory. It would be the duty of some to buy the raw material to be manufactured, of others to run the engines, to drive the spindles, of others to control and manage the carding and spinning, of others to put up and label the goods for the market, of others to make sales and take orders for goods as fast as manufactured, of others to deliver or ship goods when sold, and of others to perform such duties as may be necessary to be done, and which it would be needless to enumerate. The ceasing to perform any one thing, for the time being of the many required to be done, would certainly not be to 'cease to operate the factory.' Any one might be temporarily suspended, and yet the factory be said to be in successful operation. 'Carding and spinning' is not all that is included in a 'cotton factory.' There must be the engine to drive the machinery, and fuel to make steam. The goods, when manufactured, must be sold and shipped or delivered, and the doing of any one of these many things is a part, and even an essential part, of the operation of a large factory. Nor is the ceasing to do any one of them for a shorter or longer period ceasing to operate the factory. 'Carding or spinning' is no more all of the operation of a great factory than the sale of the fabrics when produced. Many, very many, things are included in the operations of a factory, the doing of which is necessary to its successful management. The operating of an extensive factory does not mean it shall be kept employed in all its various departments every day; that is, all the time. It would be unreasonable to construe the contract in this policy that it means the factory in all its departments shall be kept in ceaseless motion. No one supposes it means that. It may properly be closed down over Sundays and all legal holidays, or for any cause that a prudent manager of such establishments would deem prudent and best for the interest of the owners. On the same principle, one department may be kept in operation, and others cease temporarily. It might be, the fabrics manufactured might be in excess of the sales or the demands of trade, and for that reason a prudent superintendent might deem it best to stop the spindles and the looms for a season, or sales might be in excess of the supplies, and for that reason no goods would be contracted for a time. Would any one say that such partial stoppage would be a violation of the contract of insurance contained in the policy in suit? So narrow a construction would make the contract of no value to the assured, and to observe it would render the usual and ordinary management of such an establishment impracticable."

[30] The courts have construed the words "increase the risk" as meaning a material increase of risk. Some such increases are given herewith. Erecting a frame addition and putting in it a fireplace and stove. Roberts *v.* Chenango Co. Mut. Fire Ins. Co., 3 Hill (N. Y.) 501. Putting in a large stove for drying naphtha which had been heretofore dried by steam Daniels *v.* Equitable Ins. Co., 50 Conn. 50. Using engine for shelling. Davis *v.* Western Home Ins. Co., 81 Iowa, 496. Building additional house on lot so as to eliminate clear space. Pottsville Ins. Co. *v.* Horan, 89 Pa. 438.

clause: "If mechanics be employed in building, altering or repairing within the described premises for more than fifteen days at any one time."[31]

The next fact which the company must know and which, if it be not properly stated, will void the policy, is that of ownership. The statement is very plain and simple: "If the interest of the insured be other than unconditional and sole ownership."

Much litigation has resulted from this provision. The tendency of the courts has been to stretch this provision so that the company will be held and the insured be protected.[32] Cases are numerous involving this point, and the summation of them is that the insured should set forth his interest in the property so that there can be no mistake about it. The next two provisions are of the same general character, though applying to different facts. The first one provides that the building must be on ground owned by the insured in fee simple.[33] Next, if with the knowledge of the insured, foreclosure proceedings shall be commenced.[34] The next two pro-

[31] The practical working out of this provision is well described in German Ins. Co. *et al. v.* Hearne, 117 Fed. 289. In this case it was held that the assured had violated the fifteen day provision and that the policy was forfeited. The court said, "The companies said to the insured: In order that there may be no room for question in the future concerning the character of the work that may be done upon the insured premises, we agree that you may do whatever you please to the building, whether the change would be accurately described as building, or as altering, or as repairing, without asking our consent and without being obliged to consider whether or not the risk is thereby increased, and you may do this for fifteen days. But if the work you do is so extensive that it requires more than fifteen days to finish it, then we require you to give us notice, in order that we may take such steps as we may then see fit. We shall then have knowledge of what you are doing, and we can then decide whether it may go on, or whether it is so dangerous as to require us to cancel the policy altogether, or to demand that the increase of hazard shall be compensated by an increase of premium."

[32] Many questions have arisen under this clause. Some of the cases which hold what is sufficient ownership are as follows: Entering into possession under contract of purchase where a portion of the purchase price has been paid with an undertaking to pay the balance. Bottom *v.* Iowa Central Ins. Co., 25 Ia. 328. Two persons owning in severalty shares of personal property insured each as absolute owner. Veebe *v.* Ohio Farmers Ins. Co., 18 L. R. A. 481 (Mich). Existence of a mortgage on the property does not affect sole and unconditional ownership. Clay Fire Ins. Co. *v.* Beck, 43 Md. 358. Insufficient ownership was held in the following cases: The partnership is not the sole and unconditional owner where the buildings are owned by one partner. Citizens Fire Ins. Co. *v.* Doll, 35 Md. 89. Where the insured is in possession under a verbal gift and promise to convey and he has paid taxes and made improvements. Wineland *v.* Security Ins. Co., 53 Md. 276. A surviving partner who is administrator even where he has paid firm debts out of his own means and is entitled to be reimbursed out of the property. Crescent Ins. Co. *v.* Camp, 71 Tex. 503. The owner of an undivided interest. Miller *v.* Amazon Ins. Co., 43 Mich. 463.

[33] This clause has been construed along with that of sole and unconditional ownership. A definition of a fee simple may not be out of place. "It is an estate of inheritance, unlimited in duration. The owner has full power of disposal of it during his life, and on his death, if undisposed of, it goes to his heirs." See Bouvier's Law Dictionary.

[34] Notice of the existence of a chattel mortgage must be given and it must be correctly stated as to amount or the policy will be avoided. Crikelier *v.* Citizens Ins. Co., 168 Ill. 309;

visions have to do with the change of title or possession of the property and the policy. The only changes which are permitted without indorsement are the death of the insured and change of occupants without increase of hazard. All other changes must be indorsed.[35] As the fire insurance policy is a personal contract, if it be assigned without notice before a loss occurs it will be void.[36]

The next provision of this portion of the policy has to do with the generation of illuminating gas and the keeping or using or allowing to be used on the premises certain highly inflammable substances, which include benzine, benzole, dynamite, ether, fireworks, gasoline, greek fire, gunpowder exceeding twenty-five pounds in quantity, naphtha, nitro-glycerine, or other explosives, phosphorus, or petroleum, or any of its products of greater inflammability than kerosene oil of the United States standard, kept for lights and for sale, according to law, but in quantities not exceeding five barrels.[37] It is generally recognized that these substances are dangerous to have or be used in or about a building, and for this reason the company ought to have, and does have, the right to require that their use shall be subject to special permission. This for two reasons: first, that the company may know when the hazard is increased; and, second, that it may have the right to stipulate as to how the inflammable substances shall be handled. Of the same general character as this is the gasoline permit which may be attached to a

Wicke *v.* Iowa State Ins. Co., 90 Ia. 4; Smith *v.* Agricultural Ins. Co., 118 N. Y. 518; Gray *v.* Guardian Assurance Co., 31 N. Y. Supp. 237. A mere change in the incumbrance or renewal where amount is not increased will not avoid the policy. Johansen *v.* Home Fire Ins. Co., 54 Neb. 548.

[35] There is some conflict among the authorities upon this clause, so it may be as well to give some of the cases which hold what is a voidable change. Possession by sheriff under execution. St. Paul F. &. M. Ins. Co. *v.* Archibald, 16 Ins. Law Journal, 153. Execution of mortgage with power of sale. Sessamun *v.* Pamlico Ins. Co., 78 N. C. 145. Transfer of equitable title to property. Cottingham *v.* Firemen's Fund Ins. Co., 20 Ins. L. J. 187. These changes have been held not to avoid the policy. Appointment of a receiver. Keeney *v.* Home Ins. Co., 71 N. Y. 396. Invalid sale of property. Kitterlin *v.* Milwaukee Ins. Co., 134 Ill. 674. Letting building to tenants. Alkan *v.* New Hampshire Ins. Co., 53 Wis. 136.

[36] If the company consents to the assignment of the policy before a loss has occurred it is sufficient. Gould *v.* Dwelling House Ins. Co., 134 Pa. 570. An assignment made but not delivered because of lack of approval of the company does not affect the rights of the insured. Smith *v.* Monmouth Mut. Fire Ins. Co., 50 Me. 96. An assignment of all of an insured's property for the benefit of his creditor voids his fire insurance. Dube *v.* Mascoma Mut. Fire Ins. Co., 64 N. H. 527.

[37] The presence of prohibited articles kept on the premises without the knowledge of the assured is within the prohibition. Gunther *v.* Liverpool and London and Globe Ins. Co., 166 U. S. 110. In all cases the permits for the use or carrying on the premises of the articles included in this section of the policy should be drawn with great care, for the tendency of the courts is to strict construction as a study of the cases will reveal.

policy, which provides that in consideration of an extra premium permission is given for the use of gasoline stoves. This permit provides that the reservoir shall be filled by daylight only and when the stove is not in use. It also provides that no artificial light be permitted in the room when the reservoir is being filled, and that no gasoline, except that contained in the reservoir, shall be kept within the building, and not more than five gallons, in a tight and entirely closed metallic can, free from leak, on the premises adjacent thereto. The permit usually bears a caution which sets forth the danger of handling gasoline and the explosive character of the vapor caused by the union of gasoline with the air.

The last of this first section of permissions comes under the following clause: "Or, if the building herein described, whether intended for occupancy by owner or tenant, be or become vacant or unoccupied and so remain for ten days."[38] This question of vacancy permits has had considerable discussion during the past year on account of a case tried before Judge Beitler, of Philadelphia. It appeared, according to the evidence, that the property was vacant for a longer period than the policy provided for, and that it was again occupied, and during the second occupancy that it burned. The court held that the policy was voided by reason of the violation of the conditions and that the reoccupancy did not restore the policy, in harmony with that doctrine that a voided instrument cannot be made alive again except through a new contract in which both parties participate. There was an abundance of foolish talk in connection with this, and many assumed that the provision was a surprise to property owners, and that their rights thereby were unduly exposed to hazard. This vacancy condition in the policy has been a part of the standard policy from the time it was first drafted. It will be noticed that it says that these permissive clauses shall void the policy in the absence of an agreement to the contrary indorsed hereon, and all those who desire to have their property vacant for a longer period than that provided for in the policy have to do is to apply to the insurance company for a vacancy permit. These

[38] Additional cases bearing on this question are Herman *v.* Adriatic Ins. Co., 85 N. Y. 162; Halpin *v.* Phenix Ins. Co., 118 N. Y 165. In American Ins. Co., *v.* Padfield, 78 Ill., 167, it was said by the court where the insured had left a few things in the house, "The presence of these articles in the house did not constitute an occupancy, nor do they relieve the house from the charge of being vacant, either in the popular or in the legal and technical sense of that word." In Cook *v.* Continental Ins. Co., 70 Mo. 610, it was declared "it was the plaintiff's business under the policy to see that the house was occupied."

vacancy permits are of two kinds. First, there is the plain vacancy permit which provides that the building may remain vacant during any change of tenant not exceeding sixty consecutive days. Second, there is a permit providing that the property may remain vacant or unoccupied during a certain specified time, but in consideration of the increased hazard by reason of such vacancy, one-third of the insurance shall remain as suspended and be of no effect during the vacancy. Either of these permits will be granted upon application. In some cities the vacancy clause is incorporated in the following form: "Privilege to have other insurance, to make additions, alterations and repairs, this insurance to cover in the same, to keep a small quantity of benzine, to use electric current, to use oil of legal standard for lighting, cooking, and heating, and for the building to remain vacant or unoccupied." If the policy does not carry this provision, it is because the holder has not asked for it. From this it will be seen that the purpose of the company is to make it as easy as possible for the insured to keep his policy in force.

Another of the indorsements placed upon the policy in certain cases is what is known as the reduced rate average clause, or, as it is more popularly known, the co-insurance clause. Let us see, in the first place, what co-insurance means. The prefix co means together or in conjunction with. Therefore, co-insurance means to insure with or together or in conjunction with the company. In other words, under certain conditions, the property owner is a co-insurer with the company for a certain proportion of the loss. Now, rates of insurance are affected by two factors, namely, ignitability, or the inherent probability of the fire within the property itself; second, destructibility, or the facility with which it is damageable by fire. These two factors are very important in determining the rate which shall be charged. Take two properties similar in all respects so that equal rates should apply to each. Let us assume that each of these properties is worth $20,000. One of these properties belongs to A, who carries $10,000 of insurance. The other belongs to B, who carries $16,000 of insurance. The element of destructibility, so far as the insurance company is concerned, becomes much greater to A's building in case of partial loss than it does to B's. Let us illustrate: A loss occurs, damaging each property to the extent of $10,000. A's loss to the insurance company (he having insurance to the amount of $10,000) is total. B's loss

to the insurance company is 62½ per cent. Now it is clearly apparent that from the standpoint of the company A should pay more for his insurance than B, because in case of a 50 per cent. loss the company stands to lose 12½ per cent. more as proportioned to the premium than it does in the case of B. Now, the assumption is that B is entitled to a lower rate than A. In order for A to obtain the same rate that B does, he should carry $6,000 more of insurance than he is carrying. If he chooses to carry only $10,000, which is his perfect right, then the reduced rate average clause, or the co-insurance clause as it is commonly known, provides that for the insurance which he does not carry he shall be a co-insurer with the company. He saves in the amount of his premium by carrying the smaller amount of insurance, but the amount which he does not carry contributes in the settlement of a loss. Continuing the same illustration, A becomes a co-insurer with the insurance company to the extent of $6,000 of insurance. Hence, he would bear that proportion of the loss, or 62½ per cent. of $6,000, or $3,750, so that the amount that he would receive in the adjustment of the loss would be $6,250 instead of $10,000. There is considerable misapprehension concerning this co-insurance clause. The amount of insurance which a man shall carry in order not to have the co-insurance clause apply has, by a sort of common consent, been placed at 80 per cent. The 80 per cent. does not apply to what a man may recover, simply he must carry eighty per cent of the value in order that he may receive full payment in case of loss. Take the case of B. It is provided that he shall carry 80 per cent. Suppose he carries $17,000 of insurance, which is in excess of 80 per cent. In case of a loss amounting to that amount he would receive $17,000. In case he carries $16,000 and sustains a loss of $15,000 he receives $15,000. The 80 per cent. not applying to determine what he shall receive when he carries 80 per cent. of the value.

Now, let us examine this subject from just a little different point of view, the really sensible point of view. These two men, A and B, have property valued at $20,000. Each one desires, of course, to get his insurance at the lowest possible cost. If B carries 80 per cent. of value in insurance, he will receive the lowest rate. If A only carries 50 per cent. of value, in order to prevent his becoming a co-insurer he is penalized by a higher rate, so that he will not secure his insurance for less than the other man. As a large pro-

portion of losses are partial losses, this question of co-insurance, or of higher rates for lower amounts of insurance, becomes of very practical moment. It rests with the property owner under this view of the case as to whether he shall pay the minimum rate or the maximum rate. If he chooses to carry the lower amount of insurance, he either becomes a co-insurer or else pays enough higher rate to offset the lower premium. Not infrequently, policies are issued in which, in consideration of the lower rate, the insured agrees not to make any claim for a loss amounting to less than a certain sum. Within the past year some insurance has been written in Philadelphia where the property owner agreed to make no claim for a loss amounting to less than one million dollars. By making this concession he secured a low rate, because the chances of his having a million dollar loss are very much less than the chances of his having a $100,000 loss. In this case he did not care to pay the ordinary rate, which was high, because his risk was a hazardous one. He did wish to be protected in case of a conflagration. So he agreed to bear himself all the small losses in order that he might be protected in case of total destruction of his property. He might have $4,000,000 of insurance and, if his building was burned down, he would receive the full amount of his insurance. If, on the other hand, he sustained a loss of only $500,000 he would bear it himself, believing that he could afford to sustain a small loss for the purpose of having himself protected in the case of a large loss.

There is still another clause to be considered, known as the distribution average clause. This clause provides that the amount of insurance shall attach in each of two or more locations, according to the value in each. For illustration, a merchant may have merchandise in three locations. In the store where it is to be sold, in the warehouse, where he keeps his surplus stock, and in the depot of the railroad or steamship line by which he receives it. His stock is constantly shifting. One day two-thirds of it may be in the store, on another day one-half of it may be in the warehouse, and on some days he may not have any in the freight depot. When the policy is written with the distribution average clause the policy automatically divides itself as the stock is divided from day to day. When one-third is in the warehouse one-third of the insurance will apply there. If one-half is in the freight depot and none is in the warehouse, no insurance will apply to the warehouse and one-half to the

freight depot and the balance to the store. This policy would also apply to manufacturing hazards where part of the goods are in the factory, part of them are in the warehouse and part of them at the depots. It is of very great value to the merchant and manufacturer because with his property being passed from one place to another, it is almost impossible to write a specific policy which would at all times cover the value which might be in any particular location. So the distribution average clause was devised, and it works very satisfactorily.

In addition to the distribution average clause, there is another provision of the same general character, styled a floating policy. The floating policy covers one division of property located at various locations. Policies are specific when they cover on one kind of property or at any one definite location. General policies cover several kinds of property under different items at one location. It is also provided that policies must be concurrent. This is, they must agree exactly as to their wording and to the kind of property insured.

These are the principal permissive and regulative clauses which are attached to fire insurance policies. Each modifies and explains the application of some portion of the policy. It is not advisable to incorporate them in the policy, because the standard policy is applied to all conditions and circumstances, and therefore must be general in its wording. While the framework of all policies should be the same, and is the same under the standard form, yet conditions are continually arising which require modifications, and these modifications are secured through these various clauses which we have described. Only the principal clauses have been explained. Other clauses arise from time to time which are applied as the occasion demands, but being somewhat infrequent in their use, this lecture is too brief to take them up in detail. The outline presented has described the fire insurance contract as it applies to manufacturing and merchandising with a view of discussing those features which the business man needs to understand as the owner of property.